

UNITED STATES DISTRICT COURT

for the

Eastern District of Michigan

United States of America

v.

Hector BARBA-HERNANDEZ

Case: 2:22-mj-30414

Assigned To : Unassigned

Assign. Date : 9/28/2022

CMP: USA v BARBA-HERNANDEZ (MAW)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 22, 2022 in the county of Wayne in the
Eastern District of Michigan, the defendant(s) violated:

*Code Section**Offense Description*

Title 8, United States Code, Section 1326(a)

Unlawful Re-Entry after Removal from the United States

This criminal complaint is based on these facts:

On or about September 22, 2022, in the Eastern District of Michigan, Southern Division, Hector BARBA-HERNANDEZ, an alien from Mexico was found in the United States after having been denied admission, excluded, deported, and/or removed therefrom on or about March 22, 2016, and not having obtained the express consent of the Attorney General of the United States or the Secretary of Homeland Security to re-apply for admission thereto; in violation of Title 8, United States Code, Section 1326(a).

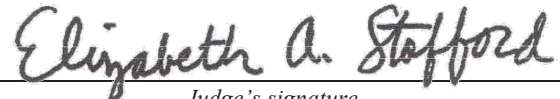
☒ Continued on the attached sheet.

*Complainant's signature*

Christopher Carr, Deportation Officer

Printed name and title

Sworn to before me and signed in my presence.

Date: September 28, 2022City and state: Detroit, Michigan*Judge's signature*

Elizabeth A. Stafford, United States Magistrate Judge

Printed name and title

Affidavit

I, Christopher Carr being duly sworn, do hereby state:

1. I am a Deportation Officer with the United States Department of Homeland Security, United States Immigration and Customs Enforcement (ICE). I have been employed in this capacity since March 2019. Currently, I am assigned to the Fugitive Operations Program. The facts set forth herein are based upon my personal knowledge as well as information provided by other law enforcement officers to include Immigration and Customs Enforcement Officers and record checks of law enforcement databases. I have also reviewed the Alien Registration File and system automated data relating to Hector BARBA-HERNANDEZ, which attests to the following:
2. Hector BARBA-HERNANDEZ is a forty-five-year-old male, native and citizen of Mexico, who last entered the United States at or near an unknown place, on or about an unknown date without begin admitted, inspected, or paroled by an Immigration Officer.
3. On or about May 10, 2007, ICE Special Agents arrested BARBA-HERNANDEZ after a local traffic arrest in Southfield, MI. ICE Special Agents issued and served BARBA-HERNANDEZ Form I-862 (Notice to Appear). BARBA-HERNANDEZ was offered a \$1500 bond which was posted on May 11, 2007. BARBA-HERNANDEZ was then released from ICE custody.
4. On March 21, 2010, BARBA-HERNANDEZ's wife, Silvia Jimenez-Arreguin, filed an I-130 (Petition for Alien Relative) on behalf of BARBA-HERNANDEZ with USCIS. USCIS approved the I-130 on July 25, 2011.
5. On August 17, 2010, an Immigration Judge (IJ) in Detroit, MI denied an application for cancellation of removal and ordered BARBA-HERNANDEZ removed from the United States. BARBA-HERNANDEZ reserved appeal of this order and filed a timely appeal on September 2, 2010, with the Board of Immigration Appeals (BIA).
6. On September 29, 2011, the BIA dismissed BARBA-HERNANDEZ's appeal making his order of removal administratively final.

7. On November 9, 2011, ERO Detroit placed BARBA-HERNANDEZ on an Order of Supervision.
8. On November 28, 2011, BARBA-HERNANDEZ filed for a Petition for Review of the BIA's Order with the Sixth Circuit Court of Appeals.
9. On July 9, 2012, the Sixth Circuit Court of Appeals dismissed BARBA-HERNANDEZ's Petition for Review.
10. On April 20, 2015, the 46th Judicial District Court in Southfield, MI convicted BARBA-HERNANDEZ for Operating While Visibly Impaired, pled down from the charge of Operating with Blood Alcohol Content of 0.17 or More, and sentenced him to 5 days in jail, 18 months of probation, and fines and fees of \$2295. The laboratory report for this arrest on November 10, 2014, shows BARBA-HERNANDEZ had a blood alcohol content (BAC) of 0.196.
11. On January 5, 2016, ERO Detroit enrolled BARBA-HERNANDEZ into the Alternative to Detention program.
12. On March 18, 2016, ERO Detroit arrested BARBA-HERNANDEZ and placed him into detention pending his removal.
13. On March 22, 2016, BARBA-HERNANDEZ was removed to Mexico via ICE Charter.
14. On July 19, 2022, the 16th District Court in Livonia, MI convicted BARBA-HERNANDEZ for Operating While Intoxicated and sentenced him to 12 days community service in lieu of 40 days in jail, 18 months of probation, and fines and fees of \$2485. The laboratory report for this arrest on April 15, 2022, shows BARBA-HERNANDEZ had a BAC of 0.20.
15. On September 22, 2022, ERO Detroit arrested BARBA-HERNANDEZ and served him with an I-871 Notice of Intent/Decision to Reinstate Prior Order. ICE searched his fingerprints in the ICE/FBI systems resulting in a positive match for Hector BARBA-HERNANDEZ, DOB XX/XX/1975, A# XXX 997 XXX, a previously removed alien.
16. The aforementioned arrest and subsequent detention was an administrative, non-criminal action made pursuant to the authority found in sections 1357, 1225, 1226, and/or 1231 of Title 8, United States Code to arrest and detain

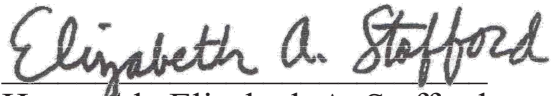
any non-citizen entering or attempting to enter the United States, or any non-citizen present in the United States, who is reasonably believed to be in violation of any law or regulation regulating the admission, exclusion, expulsion, or removal of non-citizens.

17. Review of records from the Alien File (A# XXX 997 XXX) for BARBA-HERNANDEZ and queries in Department of Homeland Security databases confirm that no record exists of BARBA-HERNANDEZ obtaining permission from the Attorney General or the Secretary of the Department of Homeland Security to re-apply for admission to the United States following his removal from the United States on March 22, 2016.
18. Based on the above information, I believe there is probable cause to conclude that BARBA-HERNANDEZ is an alien who was found in the United States after having been denied admission, excluded, deported, and removed therefrom on or about March 22, 2016 and not having obtained the express consent of the Attorney General of the United States or the Secretary of the Department of Homeland Security to re-apply for admission into the United States in violation of Title 8, United States Code, Section 1326(a).



Christopher Carr, Deportation Officer

Sworn to before me and signed in my
presence and/or by reliable electronic means.



Honorable Elizabeth A. Stafford
~~XXXXXX~~ United States Magistrate
United States District Court
Eastern District of Michigan

Dated: September 28, 2022